

# INFORMATION NOTICE

## WORKFORCE SERVICES

Number: WSIN12-70

Date: June 26, 2013

Expiration Date: 7/26/15

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TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: APPROVAL OF STATE PLAN AND EXTENSION OF WIA STATEWIDE  
WAIVERS

The purpose of this Information Notice is to inform the Workforce Development Community that the Department of Labor (DOL) has approved California's Strategic Workforce Development Plan 2013-2017 ([State Plan](#)) and waiver extension request for eight waivers affecting the administration of the Workforce Investment Act (WIA).

On April 15, 2013, the California Workforce Investment Board (State Board) requested, on behalf of the Governor, the approval of California's State Plan and extension of 11 existing WIA waivers. The DOL has approved the State Plan and eight of the waivers for the period of July 1, 2013, through June 30, 2017. The eight approved waivers are as follows:

- The waiver of the time limit on the period of initial eligibility of training providers at WIA Section 122(c).
- The waiver of WIA Section 133(b)(4) to increase the allowable transfer amount between adult and dislocated worker funding streams allocated to a Local Workforce Investment Area (local area).
- The waiver of WIA Section 134(a) to permit local areas to use a portion of local funds for incumbent worker training.
- The waiver of WIA Section 134(a)(1)(A) to permit a portion of the funds reserved for rapid response activities to be used for incumbent worker training.
- The waiver of the prohibition to use Individual Training Accounts for older and out-of-school youth at Title 20 Code of Federal Regulations 664.510.
- The waiver of the required 50 percent employer contribution for customized training at WIA Section 101(8)(C).
- The waiver of WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training.
- The waiver to permit the State to replace the performance measures at WIA Section 136(b) with the common measures.

*The EDD, an equal opportunity employer/program, is a partner in this publication. Auxiliary aids and services are available upon request to individuals with disabilities. Requests for services, aids, and/or alternate formats need to be made by calling (916) 654-8055 (Voice). TTY users, please call the California Relay Service at 711.*

The DOL's approval letter of the State Plan and eight existing waivers can be viewed as an attachment to this Information Notice. A directive providing policy guidance on the approved waivers will be published shortly.

If you have any questions, please contact your [Regional Advisor](#) at (916) 654-7799.

/S/ JOSÉ LUIS MÁRQUEZ, Chief  
Workforce Services Division

Attachment

**JUN - 7 2013**

The Honorable Edmund G. Brown  
Governor of California  
State Capitol  
Sacramento, California 95814

Dear Governor Brown:

This letter provides approval of California's State Plan for Title I of the Workforce Investment Act (WIA), the Wagner-Peyser Act (W-P), including W-P Agricultural Outreach Plan, and plans for coordination with Trade Adjustment Assistance (TAA). The Employment and Training Administration (ETA) received the State Plan on April 15, 2013. This letter also responds to California's WIA waiver requests.

Training and Employment Guidance Letter (TEGL) Number 21-11, issued on March 27, 2012, provides guidance for states to submit their State Workforce Plans and waivers for Program Year (PY) 2012 and beyond. We appreciate the State's responsiveness to this guidance.

#### Plan Review and Approval

ETA has reviewed the California State Plan in accordance with Title I of WIA, the Wagner-Peyser Act, the Trade Act (as amended), the corresponding regulations, the State Integrated Workforce Plan Requirements for Workforce Investment Act Title I/Wagner-Peyser Act and Department of Labor Workforce Programs (<http://www.doleta.gov/usworkforce/wia-planning/docs/integrated-planning-guidance.pdf>), and TEGL No. 21-11. Pursuant to 20 CFR 661.230(e), this letter constitutes a written determination under WIA Section 112 (29 USC 2822) that ETA is approving the WIA Title I, W-P and TAA portions of California's State Plan for the period July 1, 2013 through June 30, 2017, PY 2013-PY 2016. The annual W-P Agricultural Outreach Plan (AOP) is approved through June 30, 2013. The PY 2013 AOP must be developed and submitted in accordance with guidance in TEGL No. 23-12. The State is eligible to receive WIA formula allotments for Adult, Dislocated Worker, and Youth programs, and W-P program allotments, effective July 1, 2013 through June 30, 2017.

#### Performance Levels

Each year, the Regional Administrator negotiates the forthcoming Program Year's performance goals with each state. Negotiations are completed by June 30th each year. Once the final goals are established, the Regional Administrator's letter advising the

State of the PY 2013 WIA and W-P final performance goals constitutes a modification to the State Plan. ETA will incorporate California's final performance goals for PY 2013 into the Regional and National Office copies of the State Plan. Please include these final PY 2013 goals in the State's official copy of the State Plan.

### Waivers

As part of California's State Plan submission, the State submitted requests for waivers of statutory and regulatory requirements under WIA (copy enclosed). The State's waiver requests are written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c). The disposition of the State's waiver requests are outlined below. This action is taken under the Secretary's authority at WIA Section 189(i) to waive certain requirements of WIA Title I, Subtitles B and E, and Sections 8-10 of the W-P.

#### Waiver of the provision at 20 CFR 663.530 that prescribes a time limit on the period of initial eligibility for training providers.

The State is requesting a waiver of the time limit on the period of initial eligibility of training providers provided at 20 CFR 663.530. The State is granted this waiver through June 30, 2017. Under the waiver, the State is allowed to postpone the determination of subsequent eligibility of training providers. The waiver also allows the State to provide an opportunity for training providers to re-enroll and be considered enrolled as initially eligible providers.

#### Waiver of WIA Section 133(b)(4) to increase the allowable transfer amount between Adult and Dislocated Worker funding streams allocated to a local area.

The State is requesting a waiver to permit an increase in the amount a state is allowed to transfer between the Adult and Dislocated Worker funding streams. The State is granted this waiver through June 30, 2017. Under the waiver, transfer authority is limited to 50 percent. This limitation provides states flexibility while ensuring consistency with Congressional intent regarding the level of funding appropriated for the WIA Adult and Dislocated Worker programs.

#### Waiver of WIA Section 134(a) to permit local areas to use a portion of local funds for incumbent worker training.

The State is requesting a waiver to permit local areas to conduct allowable statewide activities as defined under WIA Section 134(a)(3) with local WIA formula funding, specifically incumbent worker training. The State is granted this waiver through June 30, 2017. Under this waiver, the State is permitted to allow local areas to use up to 10 percent of local Dislocated Worker funds and up to 10 percent of local Adult funds for incumbent worker training only as part of a layoff aversion strategy. Use of Adult funds must be restricted to serving lower income adults under this waiver. ETA believes limiting incumbent worker training to the specified level and requiring it to be a part of layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training

delivered under this waiver is restricted to skill attainment activities. Local areas must continue to conduct the required local employment and training activities at WIA Section 134(d), and the State is required to report performance outcomes for any individual served under this waiver in the Workforce Investment Act Standardized Record Data system (WIASRD), field 309. TEGL No. 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver" provide policy guidance related to implementation of this waiver.

Waiver of WIA Section 134(a)(1)(A) to permit a portion of the funds reserved for rapid response activities to be used for incumbent worker training.

The State is requesting a waiver to permit use of rapid response funds to conduct allowable statewide activities as defined under WIA Section 134(a)(3), specifically incumbent worker training. The State is granted this waiver through June 30, 2017. Under this waiver, the State is permitted to use up to 20 percent of rapid response funds for incumbent worker training only as part of a layoff aversion strategy. ETA believes limiting incumbent worker training to layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training delivered under this waiver is restricted to skill attainment activities. The State is required to report performance outcomes for any incumbent workers served under this waiver in WIASRD, field 309. TEGL No. 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver" provide policy guidance related to implementation of this waiver.

Waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth.

The State is requesting a waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts (ITAs) for older youth and out-of-school youth program participants. The State is granted this waiver through June 30, 2017. Under this waiver, the State can use ITAs for older youth and out-of-school youth program participants. The State must continue to make the 10 youth program elements available as described at WIA Section 129(c)(2). The State should ensure that funds used for ITAs are tracked and that the ITAs are reflected in the individual service strategies for these youth.

Waiver of the required 50 percent employer contribution for customized training at WIA Section 101(8)(C).

The State is requesting a waiver of the required 50 percent employer contribution for customized training to permit the use of a sliding scale for the employer contribution based on the size of the business. The State is granted this waiver through June 30, 2017. Under the waiver, the following sliding scale is permitted: 1) no less than 10 percent match for employers with 50 or fewer employees, and 2) no less than 25 percent match

for employers with 51-250 employees. For employers with more than 250 employees, the current statutory requirements (50 percent contribution) continue to apply. When determining the funding source for customized training, the State must use the appropriate program funds for the appropriate WIA-eligible population. The State and local area may provide customized training to individuals age 18 and older with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the State and local area may provide customized training to dislocated workers with WIA Dislocated Worker funds. Customized training provided with statewide funds must serve WIA eligible individuals.

Waiver of WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training.

The State is requesting a waiver to permit an increase in employer reimbursement for on-the-job training through a sliding scale based on the size of the business. The State is granted this waiver through June 30, 2017. Under the waiver, the following reimbursement amounts will be permitted: 1) up to 90 percent for employers with 50 or fewer employees, and 2) up to 75 percent for employers with 51-250 employees. For employers with more than 250 employees, the current statutory requirements (50 percent reimbursement) will continue to apply. When determining the funding source for on-the-job training, the State must use the appropriate program funds for the appropriate WIA-eligible population. The State and local area may provide on-the-job training to individuals age 18 and older with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the State and local area may provide on-the-job training to dislocated workers with WIA Dislocated Worker funds. On-the-job training provided with statewide funds must serve WIA eligible individuals.

Waiver to permit the State to replace the performance measures at WIA Section 136(b) with the common measures.

The State requested a waiver that allows the State to replace the 17 performance measures under WIA Section 136(b) with the common measures. The State is granted this waiver effective July 1, 2013 through June 30, 2017.

This waiver permits the State to negotiate and report WIA outcomes against the common performance measures only, rather than the performance measures described at WIA Section 136(b). The State will no longer negotiate and report to ETA on the following WIA measures: WIA adult and dislocated worker credential rates; participant and employer customer satisfaction; older youth measures; and younger youth measures. The State will use the three adult common performance measures to negotiate goals and report outcomes for the WIA Adult and WIA Dislocated Worker programs. The State will use the three youth common performance measures to negotiate goals and report outcomes for the WIA Youth program. WIASRD item 619, Type of Recognized Credential, should be completed for each individual as appropriate, regardless of this waiver to report on common performance measure outcomes only.

Waiver of WIA Section 134(a)(2)(B)(iii) and 20 CFR 665.200(e) to exempt a state from the requirement to provide local workforce investment area incentive grants.

The State is requesting a waiver of the requirement to provide local workforce investment areas incentive grants to reward regional cooperation, local coordination of activities, and exemplary performance. The State did not provide a financial justification in its request; therefore, ETA denies this waiver. TEGL 26-09, change 1, and TEGL 27-12 provide guidance on the required information for this waiver, and the ETA Regional Office is available to answer questions regarding additional needed information. The State may implement a more rigorous local workforce investment area incentive grant policy described in its request without a waiver.

Waiver of WIA Section 129(b)(2)(C) and 20 CFR 665.200(h) to exempt the state from the requirement to provide additional assistance to local areas that have a high concentration of eligible youth.

The State is requesting a waiver of the requirement to provide additional assistance to local areas that have a high concentration of eligible youth. The State did not provide a financial justification in its request; therefore, ETA denies this waiver. TEGL 26-09, change 1, and TEGL 27-12 provide guidance on the required information for this waiver, and the ETA Regional Office is available to answer questions regarding additional needed information.

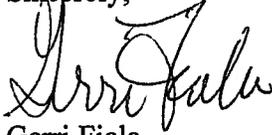
Waiver of WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d) to exempt the state from the requirement to conduct evaluations.

The State is requesting a waiver of the requirement to conduct evaluations of workforce investment activities for adults, dislocated workers, and youth in order to establish and promote continuous improvement of the statewide workforce investment system. The State did not provide a financial justification in its request; therefore, ETA denies this waiver. TEGL 26-09, change 1, and TEGL 27-12 provide guidance on the required information for this waiver, and the ETA Regional Office is available to answer questions regarding additional needed information.

The approved waivers are incorporated by reference into the State's WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and this constitutes a modification of the State Plan. A copy of this letter should be filed with the State's WIA Grant Agreement and the approved State Plan. In addition, as described in TEGL No. 29-11, the State should address the impact these waivers have had on the State's performance in the WIA annual performance report, due on October 1 of each year.

We look forward to working together as you implement your State Integrated Workforce Plan for PY 2012 and beyond. If you have any questions related to the issues discussed above, please contact Carol Padovan, the Federal Project Officer for California, at (415) 625-7946 or [Padovan.Carol@dol.gov](mailto:Padovan.Carol@dol.gov).

Sincerely,

A handwritten signature in cursive script, appearing to read "Gerri Fiala".

Gerri Fiala  
Acting Assistant Secretary

Enclosure

cc: Virginia Hamilton, Regional Administrator, ETA San Francisco Regional Office  
Carol Padovan, Federal Project Officer for California

## **D. WIA Waiver Requests**

To better support state and local efforts to improve service delivery, encourage program alignment, and ease administrative burden, the State Board will continuously monitor the need for specific waivers from the WIA requirements; attend quarterly LWIA Administrator meetings facilitated by the California Workforce Association to solicit input on existing waivers and need for additional waivers; and require Local Boards to identify in their local plan how they will take advantage and utilize each of the existing waivers in their LWIA and to annually report to the State Board how the waivers were utilized and benefitted their LWIA. These annual reports will help the State Board to make informed decisions to either terminate or request renewal of specific waivers and will provide specific examples of effective waiver usage in support of renewal requests submitted to the DOLETA.

The State Board is requesting renewal of 11 waivers for Program Year 2012-13 based on the following justification:

**WIA Waiver Request #1**

**Date:** September 17, 2012

**Agency:** California Workforce Investment Board (State Board)

**Contact Name:** Daniel X. Patterson

**Contact Phone and Email:** (916) 324-2853/Daniel.Patterson@cwib.ca.gov

**Statutory and/or Regulatory Requirements to be Waived**

20 CFR 663.530

Time limit on the period of initial eligibility of training providers.

**Actions Undertaken To Remove State or Local Barriers**

Legislation currently under review in the state legislature will require the State Board to establish a subsequent eligibility criteria policy. The State Board's intent is to adopt the provisions of the bill, which will require a subsequent eligibility determination, and set a time limit for the period of initial eligibility.

**Goals and Expected Programmatic Outcomes of Waiver**

This waiver facilitates the continued effort between the State Board, the EDD, Local Boards and other state-level stakeholders to respond to a DOLETA Program Review finding by revising the current initial eligibility policy and implementing a subsequent eligibility determination for all private postsecondary training providers.

California has existing statutes that require private post-secondary education entities to register with the state and provide annual performance report cards. It is anticipated that a state-level partnership will be developed to ensure the reporting system determines and validates the subsequent eligibility of training providers, and assists in the administration and goals of the WIA.

**Individuals Impacted by the Waiver**

This waiver will temporarily affect any person who accesses the ETPL for information on training programs. Once the state policy revision is adopted by the State Board, the subsequent eligibility of private post-secondary training providers will provide information on outcomes of all students who attended the training program. It will provide informed customer choice to WIA-eligible participants that are granted an individual training account.

**Process for Monitoring Progress in Implementation**

The State Board and the EDD-WSB, as the administrative entity of WIA in the State of California, will monitor all applicable reports provided by Local Boards. The state's current policy directive and monitoring policy and procedures will be modified to include this waiver. In addition, the State Board is evaluating the use of WIASRD fields to monitor the use of the waiver and its impact on client services.

**Public Comment**

Notification of the State Board's intent to seek input for new waiver requests and renew the existing waivers was published in April, 2012. An additional opportunity was provided by public notice in July 2012. No comments were received.

**WIA Waiver Request #2**

**Date:** September 17, 2012

**Agency:** California Workforce Investment Board (State Board)

**Contact Name:** Daniel X. Patterson

**Contact Phone and Email:** (916) 324-2853/Daniel.Patterson@cwib.ca.gov

**Statutory and/or Regulatory Requirements to be Waived**

20 CFR Section 664.510.

Permits Individual Training Accounts (ITA) for youth only if they are determined eligible for, and are co-enrolled as, an Adult or Dislocated Worker.

**Actions Undertaken To Remove State or Local Barriers**

There are no state or local statutory or regulatory barriers to implementing the proposed waiver.

**Goals and Expected Programmatic Outcomes of Waiver**

**Goal 1:** The waiver will afford older youth the same opportunity as adults to confer effectively and to decide on the most appropriate training strategy, if their assessment concludes that employment is their logical choice.

**Programmatic Outcome:**

A large percentage of older and out-of-school youth either want to train for an occupation or need to work due to their financial situations. With a waiver, these youth can pursue their occupational goals without the additional barrier of having to meet additional Adult or Dislocated Worker eligibility requirements.

**Goal 2:** The waiver will decrease duplicative paperwork necessary to co-enroll older Youth into the Adult program. Without the waiver, each of California's 49 Local Boards, and their respective One Stop system operators, must ensure that older youth are co-enrolled as adults in order to access ITAs. Co-enrollment serves no purpose other than to provide documentation and justification to access ITAs for youth.

**Programmatic Outcome:**

Granting the waiver will decrease unnecessary local and state paperwork, reduce extra staff work to track and report the co-enrollments, and free Youth case managers to continue working with the older youth, rather than transferring the case to an Adult case manager.

**Goal 3:** This waiver will allow Local Boards to improve their expenditures on out-of-school youth and help the programs meet the federal mandate to expend 30 percent of Youth funds for this population.

**Programmatic Outcome:**

With the ITA cost for youth charged directly to the Youth program rather than to the Adult and Dislocated Worker program, Youth expenditure levels will improve overall and could contribute to some LWIAs meeting their 30 percent out-of-school expenditure requirement.

**Individuals Impacted by the Waiver**

The chief impact of the waiver would be on older youth, who would benefit from ITAs. Indirectly, the waiver would also affect local eligibility workers, who would not have to expend staff time on collecting eligibility data and going through the duplicative eligibility determination process.

**Process for Monitoring Progress in Implementation**

The State Board and the EDD-WSB, as the administrative entity of WIA in the State of California, will monitor all applicable expenditure reports provided by Local Boards. The State's current policy directive and monitoring policy and procedures will be modified to include this waiver. In addition, the State Board is evaluating the use of WIASRD fields to monitor the use of the waiver and its impact on client services.

**Public Comment**

Notification of the State Board's intent to seek input for new waiver requests and renew the existing waivers was published in April 2012. An additional opportunity was provided by public notice in July 2012. No comments were received.

**WIA Waiver Request #3**

**Date:** September 17, 2012

**Agency:** California Workforce Investment Board (State Board)

**Contact Name:** Daniel X. Patterson

**Contact Phone and Email:** (916) 324-2853/Daniel.Patterson@cwib.ca.gov

**Statutory and/or Regulatory Requirements to be Waived**

WIA Section 134(a) and 20 CFR 663.145

The use of up to 10 percent of WIA Title I Adult and Dislocated Workers formula funds for incumbent worker training. This waiver can only be used for layoff aversion activities.

**Actions Undertaken To Remove State or Local Barriers**

There are no state or local statutory or regulatory barriers to implementing the proposed waiver.

**Goals and Expected Programmatic Outcomes of Waiver**

The State Board continues to invest in the development and implementation of the Industry Clusters Methodology (ICM). The ICM identifies on a regional basis, emergent industries and those that are critical to California's economic competitiveness that may require intervention to ensure long-term viability.

The State Strategic Workforce Development Plan will accomplish specified tasks, including the alignment and leveraging of federal, state, and local WIA funding streams, the identification of specified industry sectors and clusters, skills-gap analyses, and the establishment of specified eligibility criteria for the ETPL.

The application of this ICM framework assures that funds used for incumbent worker training benefit the employee and employer, as well as help to improve the region's economic vitality. The continued use of other existing methods such as WARN notices will also complement the use of ICM.

Additionally, the plan for incumbent worker training, as part of California's layoff aversion strategy, will target industries and economic sectors that offer high-skill and high-wage jobs.

The types of training that will be provided include occupational skills training designed to meet the special requirements of a business and conducted with the employer's commitment to retain all trained individuals upon successful completion of the training; educational training; training in strategies to improve efficiency of business operations; and computer software training. Training is expected to provide skills, which result in the employer being able to adjust to a changing economic climate by providing the jobs necessary to do so, thus averting layoffs. Training is also expected to provide skills for employees, which will permit advancement to higher skilled, higher-paying jobs and job retention.

#### **Individuals Impacted by the Waiver**

This waiver plan will positively affect businesses by reducing the risk of layoff or closure because workers are not current with new skills and technologies. It also has the potential, as businesses expand due to the enhanced skills of their current workers, to stimulate new, lower-skill positions and to create openings in positions vacated by incumbent workers who receive skills upgrade training. The training provided to individuals will make them more valuable to current and future employers. This waiver plan increases the role of Local Boards as a workforce intermediary and the role of business in the workforce development system. It also increases local flexibility to respond to the business community, in keeping with the goals of the WIA.

#### **Process for Monitoring Progress in Implementation**

The State Board and EDD have issued policy guidance to Local Boards on methods for identifying employers with the potential for layoffs and means to document their determination that these services were appropriate. The State Board and the EDD-WSB, as the administrative entity of WIA in the State of California, will monitor all applicable expenditure reports provided by Local Boards to ensure compliance with the established parameters of this waiver. The State's current policy directive and monitoring policy and procedures will be modified to include this waiver. In addition, the State Board is evaluating the use of WIASRD fields to monitor the use of the waiver and its impact on client services.

**Public Comment**

Notification of the State Board's intent to seek input for new waiver requests and renew the existing waivers was published in April, 2012. An additional opportunity was provided by public notice in July 2012. No comments were received.

**WIA Waiver Request #4**

**Date:** September 17, 2012

**Agency:** California Workforce Investment Board (State Board)

**Contact Name:** Daniel X. Patterson

**Contact Phone and Email:** (916) 324-2853/Daniel.Patterson@cwib.ca.gov

**Statutory and/or Regulatory Requirements to be Waived**

WIA Section 133(b)(4) and 20 CFR Part 667.140

The State Board requests approval to transfer up to 50 percent of Adult and Dislocated Worker formula funds.

**Actions Undertaken To Remove State or Local Barriers**

There are no state or local statutory or regulatory barriers to implementing the proposed waiver.

**Goals and Expected Programmatic Outcomes of Waiver**

This waiver will continue to provide much-needed flexibility to Local Boards by allowing them to respond to changes in their local labor markets and will help ensure that WIA funds are used in a way that maximizes customer service and other demand-driven needs of the business community. The need for this waiver is critical, given the current economic shifts occurring in our state.

The State Board and EDD have issued policy guidance to Local Boards on the tracking and reporting of expenditures when they are transferred between funding streams. In short, expenditures must be tracked to the original funding source. Applications are screened on a case-by-case basis by the EDD Regional Advisors, supported by Local Board public notice requirements and disclosures of the intent to transfer these funds and fully documented and justified prior to being approved by EDD.

**Individuals Impacted by the Waiver**

All WIA-eligible Adult and Dislocated Workers, as well as business customers will benefit from the waiver.

**Process for Monitoring Progress in Implementation**

The State Board and the EDD-NSB, as the administrative entity of WIA in the State of California, will monitor all applicable expenditure reports provided by Local Boards. The state's current policy directive and monitoring policy and procedures will be modified to include this waiver. In addition, the State Board is evaluating the use of WIASRD fields to monitor the use of the waiver and its impact on client services.

**Public Comment**

Notification of the State Board's intent to seek input for new waiver requests and renew the existing waivers was published in April 2012. An additional opportunity was provided by public notice in July 2012. No comments were received.

**WIA Waiver Request #5**

**Date:** September 17, 2012

**Agency:** California Workforce Investment Board (State Board)

**Contact Name:** Daniel X. Patterson

**Contact Phone and Email:** (916) 324-2853/Daniel.Patterson@cwib.ca.gov

**Statutory and/or Regulatory Requirements to be Waived**

WIA Section 101(8)(C).

50 percent employer match for customized training delivered to its employees.

**Actions Undertaken To Remove State or Local Barriers**

There are no state or local statutory or regulatory barriers to implementing the proposed waiver.

**Goals and Expected Programmatic Outcomes of Waiver**

By removing the requirement of a 50 percent employer match towards the cost of training to businesses with 250 or less employees, Local Boards will be able to more effectively market WIA-funded customized training to the private sector and support the need for building relations with employers in high-demand and growth industries.

The proposed sliding scale for the employer match creates the necessary flexibility for the employers to provide the required match at a level more reasonably suited to their size and the cost-benefit ratio of match contribution for skilled employees.

Specifically, the waiver will permit the use of the following sliding scale, based on the employer's business size:

- 1 No less than a 10 percent match for employers with 50 or fewer employees;
- 2 No less than a 25 percent match for employers with 51-250 employees and
- 3 Current statutory requirements will continue to apply to employers with more than 250 employees.

Allowing employers to apply the sliding scale to determine the match amount will increase participation in the WIA customized training programs at the local level. Local Boards will increase their participation rates for skilled job-seekers that received training and found employment. Employers will benefit by having a labor pool with the marketable skills they require.

**Individuals Impacted by the Waiver**

Individuals affected by this waiver are employers with 250 or fewer employees will benefit from the waiver due to the reduced match requirement and the ability to train a small number of individuals to their unique specifications. Adults, older Youth, and Dislocated Workers who receive customized training and subsequent employment will also benefit.

**Process for Monitoring Progress in Implementation**

The State Board and the EDD-WSE, as the administrative entity of WIA in the State of California, will monitor all applicable expenditure reports provided by Local Boards. The state's current policy directive and monitoring policy and procedures will be modified to include this waiver. In addition, the State Board is evaluating the use of WIASRD fields to monitor the use of the waiver and its impact on client services.

**Public Comment**

Notification of the State Board's intent to seek input for new waiver requests and renew the existing waivers was published in April 2012. An additional opportunity was provided by public notice in July 2012. No comments were received.

**WIA Waiver Request #6**

**Date:** September 17, 2012

**Agency:** California Workforce Investment Board (State Board)

**Contact Name:** Daniel X. Patterson

**Contact Phone and Email:** (916) 324-2853/Daniel.Patterson@cwib.ca.gov

**Statutory and/or Regulatory Requirements to be Waived**

WIA Section 136(b) and CFR 647.200

This waiver will permit the state to negotiate and report WIA outcomes against the Common Measures of performance only.

**Actions Undertaken To Remove State or Local Barriers**

There are no state or local statutory or regulatory barriers to implementing the proposed waiver.

**Goals and Expected Programmatic Outcomes of Waiver**

1. Simplify and streamline the performance measurement system;
2. Create the opportunity for state-specific performance measures through a reduction in the federally mandated measures;
3. Increase program integration by focusing the system on common goals; and
4. Improve evaluation of California's employment and training system.

As the state continues to develop and implement its high-performance Local Board policy, the State Board will continue to evaluate its use of WIASRD fields, their added value in assessing local and state-level goals and related outcomes and how the entire workforce system is working towards achieving the strategies and goals contained in the State Strategic Workforce Development Plan.

**Individuals Impacted by the Waiver**

Approval of the waiver will positively affect all customers of California's workforce investment system by eliminating administrative barriers to service and by continuing a common reporting practice that has been in place since October, 2007.

**Process for Monitoring Progress in Implementation**

The State Board and the EDD-WSB, as the administrative entity of WIA in the State of California, will monitor all applicable reports provided by Local Boards. The state's current policy directive and monitoring policy and procedures will be modified to include this waiver. In addition, the State Board is evaluating the use of WIASRD fields to monitor the use of the waiver and its impact on client services.

**Public Comment**

Notification of the State Board's intent to seek input for new waiver requests and renew the existing waivers was published in April 2012. An additional opportunity was provided by public notice in July 2012. No comments were received.

**WIA Waiver Request #7**

**Date:** September 17, 2012

**Agency:** California Workforce Investment Board (State Board)

**Contact Name:** Daniel X. Patterson

**Contact Phone and Email:** (916) 324-2853/Daniel.Patterson@cwib.ca.gov

**Statutory and/or Regulatory Requirements to be Waived**

WIA Section 134(a)(1)(A)

The use of Rapid Response funds to conduct allowable statewide activities as defined under WIA Section 134(a)(3), specifically incumbent worker training for layoff aversion.

**Actions Undertaken To Remove State or Local Barriers**

There are no state or local statutory or regulatory barriers to implementing the proposed waiver.

**Goals and Expected Programmatic Outcomes of Waiver**

Under this waiver, the State will be allowed to use up to 20 percent of Rapid Response funds for incumbent worker training, only as part of a layoff aversion strategy. All training delivered under this waiver is restricted to skill attainment activities.

Local Boards will be able to effectively market incumbent worker training to the private sector employers in their communities that are facing imminent threat of layoffs or plant closures.

The State Board continues to invest in the development and implementation of the Industry Clusters Methodology (ICM). The ICM identifies, on a regional basis, emerging industries and those that are critical to California's economic competitiveness that may require intervention to ensure long-term viability.

As part of the State Strategic Workforce Development Plan, the State Board will seek to align and leverage federal, state, and local WIA funding streams, identify specified industry sectors and clusters, conduct skills-gap analyses, and establish specified eligibility criteria for the ETPL.

The application of this ICM framework assures that funds used for incumbent worker training benefit the employee and employer, as well as help to improve the region's economic vitality. The continued use of other existing methods such as WARN notices will also complement the use of ICM.

Additionally, the plan for incumbent worker training, as part of California's layoff aversion strategy will target industries and economic sectors that offer high-skill and high-wage jobs.

The types of training that will be provided include occupational skills training designed to meet the special requirements of the employer and conducted with the employer's commitment to retain all trained individuals upon successful completion of the training; educational training; training in strategies to improve efficiency of business operations; and computer software training. Training is expected to provide skills, which result in the employer being able to adjust to a changing economic climate by providing the jobs necessary to do so, thus averting layoffs. Training is also expected to provide skills for employees, which will permit advancement to higher-skilled, higher-paying jobs and job retention.

#### **Individuals impacted by the Waiver**

This waiver plan will positively affect employers by reducing the risk of layoff or closure because workers are not current with new skills and technologies. It also has the potential, as employers expand due to the enhanced skills of their current workers, to stimulate new, lower-skill positions and to create openings in positions vacated by incumbent workers who receive skills upgrade training. The training provided to individuals will make them more valuable to current and future employers. This waiver plan increases the role of Local Boards, as workforce intermediary, and the role of business in the workforce development system. It also increases local flexibility to respond to the business community, in keeping with the goals of the WIA.

#### **Process for Monitoring Progress in Implementation**

The State Board and EDD have issued policy guidance to Local Boards on methods for identifying employers with the potential for layoffs and means to document their determination that these services were appropriate. The State Board and the EDD-WSB, as the administrative entity of WIA in the State of California, will monitor all applicable expenditure reports provided by Local Boards to ensure compliance with the established parameters of this waiver. The state's current policy directive and monitoring policy and procedures will be modified to include this waiver. In addition, the State Board is evaluating the use of WIASRD funds to promote the use of the waiver and its impact on client services.

**Public Comment**

Notification of the State Board's intent to seek input for new waiver requests and renew the existing waivers was published in April, 2012. An additional opportunity was provided by public notice in July 2012. No comments were received.

**WIA Waiver Request #8**

**Date:** September 17, 2012

**Agency:** California Workforce Investment Board (State Board)

**Contact Name:** Daniel X. Patterson

**Contact Phone and Email:** (916) 324-2852/Daniel.Patterson@cwib.ca.gov

**Statutory and/or Regulatory Requirements to be Waived**

WIA Section 101(31)(B)

Waiver of the reimbursement rates to employers for the cost of on-the-job training.

**Actions Undertaken To Remove State or Local Barriers**

There are no state or local statutory or regulatory barriers to implementing the proposed waiver.

**Goals and Expected Programmatic Outcomes of Waiver**

This waiver increases flexibility in the use of WIA formula funds by permitting up to 90 percent reimbursement of the extraordinary costs of on-the-job training (OJT).

Reimbursement would be provided on a sliding scale, based on employer size:

1. Up to 90 percent for employers with 50 or fewer employees;
2. Up to 75 percent for employers with 51 to 250 employees; and
3. Reimbursement would remain at the 50 percent statutory level for employers with more than 250 employees.

The state will use the appropriate program funds for the appropriate WIA-eligible population.

**Individuals Impacted by the Waiver**

The waiver will affect WIA-eligible adults and dislocated workers. When Adult formula funds are limited, priority will be given to low-income individuals. The waiver will also provide

businesses an additional incentive to hire eligible participants through the on-the-job training model

**Process for Monitoring Progress in Implementation**

The State Board and the EDD-WSB, as the administrative entity of WIA in the State of California, will monitor all applicable expenditure reports provided by Local Boards. The state's current policy directive and monitoring policy and procedures will be modified to include this waiver. In addition, the State Board is evaluating the use of WIASRD fields to monitor the use of the waiver and its impact on client services.

**Public Comment**

Notification of the State Board's intent to seek input for new waiver requests and renew the existing waivers was published in April 2012. An additional opportunity was provided by public notice in July 2012. No comments were received.

**WIA Act Waiver Request #9**

**Date:** September 17, 2012

**State:** California

**Agency:** California Workforce Investment Board (State Board)

**Contact Name:** Daniel X. Patterson

**Contact Phone and Email:** (916) 324-2853/Daniel.Patterson@cwib.ca.gov

Statutory and/or regulatory requirements to be waived

Waiver of WIA Section 134(a)(2)(B)(iii) and 20 CFR 655.200(e) requiring provision of incentive grants to local areas.

Actions undertaken to remove state or local barriers

There are no state or local statutory or regulatory barriers to implementing the proposed waiver.

Goals and expected programmatic outcomes of waiver

The State Board's goal in seeking this waiver is to ensure that the Governor is able to prioritize the use of limited funds for the required activities deemed most essential to the basic functions of the workforce investment system, initiate activities that will further the goals outlined in the State Strategic Workforce Plan, and target special populations such as veterans and youth with barriers to employment for employment and training services in a statewide initiative. Additionally, the timeline associated for DOLETA approval of the State Strategic Workforce Plan and the waivers included in it significantly impact the lead time for notice required to the state legislature to obtain authority for allocating and encumbering these funds.

The current State Board incentive policy requires a Local Board to meet 80 percent of its negotiated performance goal and achieve or maintain the statutory Local Board composition requirements to receive an incentive award. The allocation from the Governor's WIA discretionary funds for this purpose has been \$700,000. This included \$490,000 for exemplary performance and \$210,000 for regional cooperation and local coordination incentive grants.

Historically, approximately three-fourths (3/4) of California's 49 Local Boards receive an annual incentive award. The balance has been disbursed among Local Boards to encourage and assist in regional planning. It has long been held that these grant awards do not provide sufficient incentive to increase performance, test innovative strategies or increase regional cooperation and local coordination as it is envisioned in the State Strategic Workforce Plan.

In September 2011, Governor Brown enacted legislation that requires the State Board to certify high-performance Local Boards. This new law also stipulates that Local Plans and corresponding activities be driven towards achieving higher levels of performance and activities that go beyond those described in the Common Measures currently being used in California. The first certification of high-performance Local Boards must occur on or before July 1, 2013 and occur at least once every two years thereafter.

The State Board initiated a stakeholder process to determine the appropriate measurable metrics and standards to ensure this certification would be meaningful and transformational. This effort informed the development of a policy framework and evaluation criteria for local planning activities that are incorporated in the State Strategic Workforce Plan. These criteria include several WIA requirements, the development and implementation of strategic planning activities that are data-based, action-oriented, include demands of regional industry sector employers, strategy for investment in training activities that promote career pathways, and be a consensus document for the champions of the local and regional workforce system. The State Board will apply these new criteria when reviewing the new Local Plans, which will be due in the summer of 2013.

The State Board and its group of stakeholders continue to work to identify the additional performance outcomes and measures that can be uniformly reported and assessed across the state's 49 diverse CWIAs.

To ensure that this certification shapes regional planning and coordination and results in meaningful outcomes, all of which require an initial investment of local funds, it is the State Board's opinion that the discretionary funding available this year will not help achieve these goals if disbursed using the minimum criteria of the current policy. However, if funds are available in sufficient amounts in Program Year 2013-2014, it is anticipated that a portion of the funds will be used to provide incentive awards to high-performance Local Boards per the new state law. This will be consistent with WIA requirements and support the Governor's strategic policy direction established in the law.

### Individuals impacted by the waiver

If this waiver is granted, the short-term impact will be to the Local Boards that met at least the minimum-required performance levels for the previous program year. That expectation is reduced due to the notice already given to Local Boards of our intent to seek this waiver and the fact that these incentive awards were not provided last year.

The local and regional workforce system champions will benefit from the granting of this waiver by reinforcing the message that incentive awards will no longer be granted to Local Boards that perform at the minimum levels. Rather, the new policy direction is to incentivize regional planning, regional sector cluster analysis, accountability for performance outcomes, and strategic planning that includes education, business, labor and CBOs, to the benefit of the job-seeker and the businesses served by the local and regional workforce system.

Transversely, if this waiver is not approved, the priority populations to be served through a statewide initiative, veterans and youth, will not be served in the manner called for in the State Strategic Workforce Development Plan.

### Steps for the State to improve implementation

To ensure accountability for federal funds in connection with these waivers the state will be reviewing Local Plans and will monitor progress against the action steps identified in the Local Plans. Also, as additional performance measures are identified, they will be incorporated as part of an overall evaluation and the high-performance certification policy will be modified accordingly.

### Notice to affected Local Boards

Local Boards were notified in writing of the State Board's intent to renew this waiver in April 2012 and then again in July, 2012. No public comment was received in either instance.

**WIA Act Waiver Request #10**

**Date:** April 1, 2012

**State:** California

**Agency:** California Workforce Investment Board

**Contact Name:** Daniel A. Patterson

**Contact Phone and Email:** (916) 324-2853/Daniel.Patterson@cwib.ca.gov

Statutory and/or regulatory requirements to be waived

Waiver of WIA Section 129(b)(2)(C) and 20 CFR 665.200(g) requiring provision of incentive grants to local areas.

Actions undertaken to remove state or local barriers

There are no state or local barriers.

Goals and expected programmatic outcomes of waiver

The continued reduction to five percent in the WIA allotment for Program Year 2012 Governor's Reserve funds restricts the state's ability to effectively fund and carry out all of the required statewide workforce investment activities. The current funding level in the Governor's Reserve is insufficient to cover the cost of evaluations. The state's reduced funds are being used to cover the following required activities:

- Required statewide administrative agencies
- Governor's Award for Veterans Grants

Our goal in seeking this waiver is to ensure that the state may prioritize the use of Governor's Reserve funds for the required activities we deem most essential to the basic functions of the workforce investment system.

For Program year 2010 the State allocated \$500,000 for high concentration youth grants. These grants were waived in Program Year 2011 due to there were insufficient funds in the Governor's Reserve to fund these grants. In Program Year 2010 these grants were awarded on a competitive basis to the highest five competitors. Each grantee received \$100,000. Not funding the activity will remove an extra funding opportunity beyond the normal annual

allocations that only a few local areas receive. Regular expected funding is not impacted. Regular WIA participant services (i.e. youth activities) will not be impacted.

Individuals impacted by the waiver

This waiver will provide the state agency with more flexibility in directing Governor's Reserve funds to those activities that best preserve basic functions of the statewide workforce investment system.

Process for monitoring progress in implementation

The State will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the EEA Regional Office liaisons, and through its monitoring and performance accountability system.

Notice to affected local boards

Local Boards were notified by electronic mail and provided a copy of the draft waiver. Comments were solicited and none were received.

Public Comment

The draft waiver was published with the rest of the draft State Plan on the State Board website for 30 days in February-March 2013.

**WIA Act Waiver Request #11**

**Date:** April 1, 2013

**State:** California

**Agency:** California Workforce Investment Board

**Contact Name:** Daniel X. Patterson

**Contact Phone and Email:** (916) 324-2853; Daniel.Patterson@cwib.ca.gov

Statutory and/or regulatory requirements to be waived

Waiver of WIA Section 134(a)(2)(B)(i) and 20 CFR 665.200(d) requiring the conduct of evaluations of workforce investment activities for adults, dislocated workers, and youth.

Actions undertaken to remove state or local barriers

There are no state or local barriers.

Goals and expected programmatic outcomes of waiver

The reduction to five percent in the WIA allotment for Program Year 2011 Governor's Reserve funds restricts the state's ability to effectively fund and carry out all of the required statewide workforce investment activities. The current funding level in the Governor's Reserve is insufficient to cover the cost of evaluations. The state's reduced funds are being used to cover the following required activities:

- Required statewide administrative agencies
- Governor's Award for Veterans Grants

Our goal in seeking this waiver is to ensure that the state may prioritize the use of Governor's Reserve funds for the required activities we deem most essential to the basic functions of the workforce investment system.

Individuals impacted by the waiver:

This waiver will provide the state agency with more flexibility in directing Governor's Reserve funds to those activities that best preserve basic functions of the statewide workforce investment system.

Process for monitoring progress in implementation

The State will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system.

Notification of affected local boards

Local Boards were notified by electronic mail and provided a copy of the draft waiver. Comments were solicited and none were received.

Public Comment

The draft waiver was published with the rest of the draft State Plan on the State Board website for 30 days in February-March 2013.